



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
POWER OF ATTORNEY

Docket No. 23091/11 (ACT-173)

Serial No.: 10/013,084

Name of Assignee:
Address:

Shipley Company, L.L.C.
455 Forest Street
Marlborough, MA 01752

TO THE ASSISTANT COMMISSIONER FOR PATENTS

Honorable Sir:

I hereby appoint:

Maria M. Eliseeva Reg. No. 43,328
Brian L. Michaelis Reg. No. 34,221
Mark S. Leonardo Reg. No. 41,433
Peter B. Sorell Reg. No. 44,349
Mark A. Hofer Reg. No. 30,068

David D. Lowry Reg. No. 38,538
Joseph P. Quinn Reg. No. 45,029
Thomas M. Saunders Reg. No. 29,585
John C. Serio Reg. No. 39,023
Steven M. McHugh Reg. No. 47,784

All of the firm:

Brown Rudnick Berlack Israels LLP.
One Financial Center
18th Floor
Boston MA 02111

Neils Haun of the law firm of Dann, Dorfman, Herrell & Skillman, Reg. No. 48,488
Darryl P. Frickey of Shipley Company, L.L.C., Reg. No. 34,603
Jonathan Baskin of Shipley Company, L.L.C., Reg. No. 39,499
Matt Cairns of Shipley Company, L.L.C., Reg. No. 42,378
John Piskorski of Shipley Company, L.L.C., Reg. No. 35,647
Peter F. Corless of the law firm of Edwards & Angell, LLP, Reg. No. 33,860

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as attorneys to prosecute this application, to transact all business in the Patent and Trademark Office connected with the above-referenced patent application. Applicant hereby revokes all previous powers of attorney associated with this application.

Please direct all future correspondence to the principal attorney of record as:

Maria M. Eliseeva
Brown Rudnick Berlack Israels LLP
One Financial Center
18th Floor
Boston MA 02111

Shipley Company, L.L.C.

By: Darryl P. Frickey

Darryl P. Frickey
Assistant Secretary and Director of Patents
Shipley Company, L.L.C.

Dated: December 6, 2002



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICANTS: Mindaugas F. Dautartas, David W. Sherrer, Neal Ricks and
Dan A. Steinberg

EXAMINER: Unknown GROUP: 2874

SERIAL NO.: 10/013,084 CONFIRMATION NO: 1473

FILED: December 10, 2001

FOR: Optical Device Package for Flip-Chip Mounting

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: BOX DAC, Assistant Commissioner for Patents, Washington, DC 20231 on:

By:

Deborah Celeste

January 8, 2003

Date

BOX DAC
Assistant Commissioner for Patents
Washington, DC 20231

REQUEST FOR RECONSIDERATION OF
PETITION UNDER 37 CFR 1.47 (a)

Sir:

This is in response to the Decision Refusing Status Under 37 CFR 1.47(a) (a copy of which is enclosed), dated November 27, 2002.

Enclosed are two (2) Declarations (eleven pages) in compliance with 35 U.S.C. §§ 115 and 116 which have been executed by all inventors and also includes Page 6 of the Declaration which was inadvertently omitted from the one previously filed on August 12, 2002.

Also enclosed is a Power of Attorney to be entered in the above-referenced application.

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Please charge any required fee for this response to Deposit Account No. 50-0369.

Respectfully submitted,

Maria Eliseeva

Maria M. Eliseeva, Esq.
Registration No. 43,328
Customer No. 21710
BROWN RUDNICK BERLACK ISRAELS, LLP
Intellectual Property Department
One Financial Center
Boston, MA 02111
Tel: 617-856-8340
Fax: 617-856-8201

Dated: January 8, 2003

#1173960 23091/11

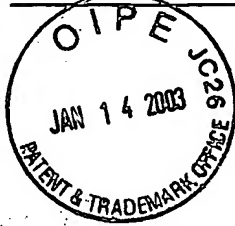
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UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

ADRIAN T. CALDERONE
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

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NOV 27 2002

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In re Application of :
Duatartas, Sherrer, Ricks, and :
Steinberg :
Application No. 10/013,084 : DECISION REFUSING STATUS
Filed: 10 December, 2001 : UNDER 37 CFR 1.47(a)
Atty Docket No. ACT-173 (1117-11) :

This is in response to the petition filed under 37 CFR 1.47(a) on
12 August, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of
this decision to reply, correcting the below-noted deficiencies.
Any reply should be entitled "Request for Reconsideration of
Petition Under 37 CFR 1.47(a)," and should only address the
deficiencies noted below, except that the reply may include an
oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.

Extensions of time may be obtained in accordance with 37 CFR
1.136(a).

The above-identified application was filed on 10 December, 2001,
without an executed oath or declaration. Accordingly, on 10
January, 2002, a Notice to File Missing Parts of Nonprovisional
Application was mailed, requiring an executed oath or declaration
and a surcharge for its late filing.

In response, on 12 August, 2002, petitioners filed the present
petition, along with a five (5) month extension of time and a
declaration naming Mindaugas F. Dautartas, David W. Sherrer, Neal

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Ricks, and Dan A. Steinberg as joint inventors and signed by all of the joint inventors except Steinberg on behalf of themselves and joint inventor Steinberg.

Petitioners state that joint inventor Steinberg refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not provided proof that Steinberg was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).¹ Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

It is also noted that the last page of the declaration as filed is marked "Page 5 of 6". It is unclear whether pages containing additional inventors' names were omitted from the declaration

¹MPEP 409.03(d).

when it was filed in the USPTO. 37 CFR 1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63.² Therefore, a petition under 37 CFR 1.48 is required if additional inventors are to be added.

The Power of Attorney filed on 12 August, 2002, cannot be accepted because it is signed by fewer than all of the inventors.³ An assignee filing a revocation or power of attorney must establish its right to act in the prosecution of this application.⁴ The assignee must submit evidence of ownership in accordance with 37 CFR 3.73(b). A courtesy copy of this decision will be sent to the address on the petition. All future correspondence, however, will be send solely to the correspondence address of record.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. The petition fee of \$130.00 has been charged to counsel's deposit account, No. 50-0369, as authorized in the petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

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²MPEP 605.

³MPEP 402.10.

⁴See 37 CFR 3.73.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.



Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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cc: MARIA ELISEEVA
BROWN RUDNICK BERLACK ISREALS LLP
ONE FINANCIAL CENTER
BOSTON, MA 02111